

Remarks

Oath/Declaration

Examiner Ahuja stated that the Oath or Declaration is missing the US Application No. and that the specification to which the oath or declaration is directed to has not been adequately identified. A supplemental declaration is submitted with this response.

Specification:

The disclosure was objected to because a Brief Summary of the Invention was not provided. The Applicants maintain that a summary of the invention is neither statutorily required by Title 35 of the United States Code nor administratively required by Title 37 of the Code of Federal Regulations. In particular, 35 USC §111 requires a specification, a drawing, and an oath and does not require a summary of the invention. Regarding 37 CFR 1.73, the term “should”, as opposed to “shall” or “must” is an expression of a non-mandatory preference for an action or stated requirement. In other words, when the Applicants are required to provide particular subject matter in the application, the Code of Federal Regulations clearly states that such subject matter “must” or “shall” be included. See, e.g., 37 CFR §1.71 (“specification must include a written description”) (emphasis added); 37 CFR §2.74 (“there shall be a brief description of the several views of the drawings”) (emphasis added). In further support of Applicants’ assertion, Applicants refer Examiner to the *Official Gazette* notice page 1190 OG 74, Sept. 17, 1996, (Response to Comment 17) which specifically states, “Section 1.77 is permissive rather than mandatory.” Given the USPTO’s own official comment on what is meant by the term “should”, Applicants contend that a “Summary of the Invention” is not required.

Claim Objections:

Claims 8, 11, 12, and 16 were objected to because of several informalities. In response, these claims were amended as suggested by the Examiner.

Rejections Under 35 USC 112:

Claim 12 was rejected under 35 USC 112, second paragraph. This claim has been cancelled with this response.

Rejections Under 35 USC 102:

Oftentimes digital content is provided to users containing advertisements. The inclusion of advertisements with the digital content could allow providers to offer the digital content to the user at a reduced price compared to a version of the digital content without advertisements. One issue with regards to advertising is the proliferation of devices that can bypass advertising. For example, users can fast-forward the advertising and skip directly to the desired digital content.

To address this issue, the present invention provides for an advertisement that contains an encryption key that is only obtainable after rendering the entire advertisement. The encryption key is then needed to decrypt the digital content. Because the encryption key can only be obtained by rendering the advertisement, bypassing, skipping, or modifying the advertisement will make it impossible to view the digital content included with the advertisement. Therefore, a user must completely render the advertisement message in order to view the digital content.

Claims 1, 3, 8, 9, 13, and 17 were rejected under 35 USC 102(e) as being anticipated by Swart et al. (US 20030028890). In response, independent claims 1, 8, and 17 were amended to more clearly recite what the Applicants regard as their invention. In particular, these claims were amended to include the fact that the advertisement is utilized to obtain the content encryption key. More particularly, claim 1 was amended to include the limitation that the advertisement is rendered to obtain a content encryption key from the advertisement. Claim 8 was amended to include the limitation that the encryption key is only obtainable after rendering the advertisement. Finally, claim 17 was amended to include the limitation that the advertisement is used to obtain the content encryption key.

Analysis of the prior art reveals that Swart et al. simply teaches that content may be encrypted by a content encryption key, and that the content may comprise of advertising. Swart is silent to the fact that the content encryption key can be obtained from the advertisement, or that the encryption key is only obtainable after rendering the

advertisement. Because of this, independent claims 1, 8, and 17 are allowable over the prior art of record.

Regarding all other claims, since these claims depend from allowable base claims, all other claims are in proper condition for allowance.

No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references. As the Applicant has overcome all substantive rejections given by the Examiner the Applicant contends that this Amendment, with the above discussion, overcomes the Examiner's rejections to the pending claims. Therefore, the Applicant respectfully requests allowance of the application. If the Examiner is of the opinion that any issues regarding the status of the claims remain after this response, the Examiner is invited to contact the undersigned representative to expedite resolution of the matter. Finally, please charge any fees (including extension of time fees) or credit overpayment to Deposit Account No. 502117.

Respectfully Submitted,
Vogler, ET AL.

By: /Kenneth Haas/
Reg. No. 42,614
Phone: (847) 576-6937
FAX: (847) 576-3750